

**NOV 13 2007**

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## Facsimile

To  
Company United States Patent and Trademark Office  
Fax Number (571) 273-8300  
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From Philip Swain  
Telephone Number (514) 392-9562  
Date November 12, 2007  
Re U.S. Patent application no. 10/502,283  
Total Pages 13 (including cover)  
File Number L80003383US  
CopyTrak # 4011

### Petition Under 37 C.F.R. 1.47

<b>IN RE APPLICATION OF FOR</b>	:	U.S. Patent Application no. 10/502,283
	:	EX-VIVO GENE THERAPY OF DIABETES
	:	USING IAP POLYPEPTIDES
<b>APPLICANT</b>	:	Bruce Verchere et al
<b>FILED</b>	:	10/502,283
<b>DOCKET NO</b>	:	L80003383US
<b>CUSTOMER NO.</b>	:	49580

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Printed name of person transmitting correspondence	Signature of person transmitting correspondence

**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**IN RE APPLICATION OF :** U.S. Patent Application no. 10/502,283  
**FOR :** EX-VIVO GENE THERAPY OF DIABETES  
USING IAP POLYPEPTIDES  
**APPLICANT :** Bruce Verchere et al  
**FILED :** 10/502,283  
**DOCKET NO :** L80003383US  
**CUSTOMER NO. :** 49580

Montreal, Quebec, Canada  
November 12, 2007

**Petition Under 37 C.F.R. 1.47**

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions that the above-identified patent application be accorded status under 37 C.F.R. 1.47. One of the inventors, Peter LISTON, refuses to sign a Revocation of Power of Attorney/New Power of Attorney and Change of Correspondence Address, and therefore this application is being made by the available joint inventors, Bruce VERCHERE, Rusung TAN and Robert G. KORNELUK, as required by 37 C.F.R. 1.63 and on behalf of the nonsigning joint inventor, Peter LISTON, as required by 37 CFR 1.64.

11/13/2007 PCHOMP 00000055 504067 10502283  
01 FC:1464 130.00 DA

Application No. 10/502,283

Background and Proof

Peter LISTON is a joint inventor with Bruce VERCHERE, Rusung TAN and Robert G. KORNELUK for the above-captioned United States patent application, as evidenced by an oath/declaration signed by all the inventors, which is submitted herewith.

On July 6<sup>th</sup>, 2007, a letter enclosing Revocation of Power of Attorney/New Power of Attorney and Change of Correspondence Address forms (hereinafter the "form") was sent to Jennifer Lynett, Ph.D. Senior Technology Transfer Officer, University of British Columbia, for signatures by the inventors Bruce VERCHERE, Rusung TAN, Robert G. KORNELUK, and Peter LISTON. The form was sent to Peter LISTON at his last known address of:

1 Second Avenue  
Ottawa, Ontario K1S 2H2  
Canada

When Peter LISTON failed to return his signed form, numerous telephone calls throughout July 2007 were made and messages left on his answering machine. The messages were not returned.

On September 27, 2007, Peter LISTON was successfully contacted by Jean Farrall, a consultant to the University of Ottawa and to the Children's Hospital of Eastern of Ontario (CHEO). According to Jean Farrall, Peter LISTON refuses to sign the form because he has left CHEO and feels that "it was of no benefit to him"

To this date, despite diligent effort, Peter LISTON has failed to return his signed form.

Applicable Law

In accordance with 35 U.S.C. §116, if an inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other joint inventor on behalf of himself and the omitted inventor. In accordance with 37 CFR 1.47(a), if a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself and the non-

Application No. 10/502,283

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signing inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h) and the last known address of the non-signing inventor. The executed forms by the available joint inventors with the signature block of the non-signing inventor left blank are submitted herewith.

Summary

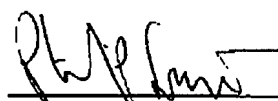
In accordance with the applicable law, the Applicant has included herewith a declaration in accordance with 37 CFR 1.63 and 1.64 signed by all of the joint inventors. The Applicant has provided the above background and proof that Peter LISTON refuses to sign the form after diligent effort in the form of this petition.

In view of the above information and proof, Applicant respectfully requests that this petition be granted and that the application be accorded status under 37 CFR §1.47.

The US Patent Office is hereby authorized to charge the fees required by 37 CFR 1.17(h) in the total amount of \$130.00 to our Deposit Account no. 50-4067. Please charge any deficiency or credit any overpayment in the fees that may be due in this matter to our Deposit Account no. 50-4067.

Respectfully submitted,

**GOWLING LAFLEUR HENDERSON, LLP**



Philip Swann, Ph.D.

Reg. No. 55,978  
1 Place Ville-Marie 37th Floor  
Montreal, Quebec H3B 3P4  
CANADA

Tel.: (514) 392-9562  
Fax: (514) 878-1450

Docket No. L80003383US

Date: November 12, 2007

**NOV 13 2007****UNITED STATES PATENT AND TRADEMARK OFFICE**

**PATENT APPLICATION NO.:** 10/502,283  
**FILING DATE:** August 1, 2005  
**APPLICANT:** Bruce Verchere et al.  
**TITLE:** EX-VIVO GENE THERAPY OF DIABETES USING  
IAP POLYPEPTIDES  
**OUR FILE NO.:** L80003383US

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**REVOCATION OF POWER OF ATTORNEY /  
NEW POWER OF ATTORNEY AND  
CHANGE OF CORRESPONDENCE ADDRESS**

The undersigned, Bruce Verchere, Rusung Tan, Peter Liston and Robert G. Korneluk, whose respective post office addresses are 708 West 22<sup>nd</sup> Avenue, Vancouver, British Columbia V5Z 1Z7, Canada; 2016 West 43<sup>rd</sup> Avenue, Vancouver, British Columbia V6M 2C9, Canada; 1 Second Avenue, Ottawa, Ontario K1S 2H2, Canada; and 1901 Tweed, Ottawa, Ontario K1G 2L8, Canada, hereby revoke each and every previous appointment of representative as well as each and every appointment of patent agent with respect to the above-identified U.S. Patent Application and appoint Philip A. Swain, Reg. 55,978, of GOWLING LAFLEUR HENDERSON LLP, whose full post office address is 1, Place Ville Marie, 37<sup>th</sup> Floor, Montreal, Quebec, H3B 3P4 CANADA, as the applicant's representative and patent agent, with respect to the said application and any resulting patent.

Send all correspondence to :

Philip A. Swain (Customer no. 49580)  
GOWLING LAFLEUR HENDERSON LLP  
1, Place Ville Marie, 37<sup>th</sup> Floor  
Montreal, Quebec, H3B 3P4  
CANADA

- 1 -

[MTL\_LAW\1130886\1]

Signed at (city, province) VANCOUVER BC, Canada,  
this 19 day of JULY, 2007

  
Name: **Bruce Verchere**

Signed at (city, province) \_\_\_\_\_, Canada,

this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Rusung Tan**

Signed at (city, province) \_\_\_\_\_, Canada,

this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Peter Liston**

Signed at (city, province) \_\_\_\_\_, Canada,

this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Robert G. Korneluk**

**NOV 13 2007****UNITED STATES PATENT AND TRADEMARK OFFICE**

**PATENT APPLICATION NO.:** 10/502,283  
**FILING DATE:** August 1, 2005  
**APPLICANT:** Bruce Verchere et al.  
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**OUR FILE NO.:** L80003383US

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Send all correspondence to :

Philip A. Swain (Customer no. 49680)  
GOWLING LAFLEUR HENDERSON LLP  
1, Place Ville Marie, 37<sup>th</sup> Floor  
Montreal, Quebec, H3B 3P4  
CANADA

Signed at (city, province) \_\_\_\_\_, Canada,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Bruce Verchere**

Signed at (city, province) Vancouver, B.C., Canada,  
this 6th day of July, 2007

W. Tan

Name: **Rusung Tan**

Signed at (city, province) \_\_\_\_\_, Canada,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Peter Liston**

Signed at (city, province) \_\_\_\_\_, Canada,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Robert G. Korneluk**



**NOV 13 2007****UNITED STATES PATENT AND TRADEMARK OFFICE**

**PATENT APPLICATION NO.:** 10/502,283  
**FILING DATE:** August 1, 2005  
**APPLICANT:** Bruce Verchere et al.  
**TITLE:** EX-VIVO GENE THERAPY OF DIABETES USING  
IAP POLYPEPTIDES  
**OUR FILE NO.:** L80003383US

**RECEIVED**

NOV 05 2007

**GOWLING****REVOCATION OF POWER OF ATTORNEY****NEW POWER OF ATTORNEY AND  
CHANGE OF CORRESPONDENCE ADDRESS**

The undersigned, Bruce Verchere, Rusung Tan, Peter Liston and Robert G. Komeluk, whose respective post office addresses are 708 West 22<sup>nd</sup> Avenue, Vancouver, British Columbia V5Z 1Z7, Canada; 2016 West 43<sup>rd</sup> Avenue, Vancouver, British Columbia V6M 2C9, Canada; 1 Second Avenue, Ottawa, Ontario K1S 2H2, Canada; and 1901 Tweed, Ottawa, Ontario K1G 2L8, Canada, hereby revoke each and every previous appointment of representative as well as each and every appointment of patent agent with respect to the above-identified U.S. Patent Application and appoint Philip A. Swain, Reg. 55,978, of GOWLING LAFLEUR HENDERSON LLP, whose full post office address is 1, Place Ville Marie, 37<sup>th</sup> Floor, Montreal, Quebec, H3B 3P4 CANADA, as the applicant's representative and patent agent, with respect to the said application and any resulting patent.

Send all correspondence to :

Philip A. Swain (Customer no. 49580)  
GOWLING LAFLEUR HENDERSON LLP  
1, Place Ville Marie, 37<sup>th</sup> Floor  
Montreal, Quebec, H3B 3P4  
CANADA

- 1 -

[MTL\_LAW\1130836\]

Signed at (city, province) \_\_\_\_\_, Canada,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Bruce Verchere**


Signed at (city, province) \_\_\_\_\_, Canada,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Rusung Tan**

Signed at (city, province) \_\_\_\_\_, Canada,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Name: **Peter Liston**

Signed at (city, province) Ottawa Ontario, Canada,  
this 30<sup>th</sup> day of October, 2007

  
Name: **Robert G. Korneluk**

PATENT  
ATTORNEY DOCKET NO. 07891/032002

**COMBINED DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled METHOD OF TREATING DIABETES, the specification of which was filed on July 22, 2004 as Application Serial No. 10/502,283.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with 37 C.F.R. § 1.56.

**FOREIGN PRIORITY RIGHTS:** I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below, and have also identified below any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Country	Serial Number	Filing Date	Priority Claimed?
PCT	03/00597	January 23, 2003	Yes

**PROVISIONAL PRIORITY RIGHTS:** I hereby claim priority benefits under 35 U.S.C. § 119(e) of any United States provisional patent application(s) listed below filed by an inventor or inventors on the same subject matter as the present application and having a filing date before that of the application(s) of which priority is claimed:

Serial Number	Filing Date	Status
60/350,783	January 23, 2002	Abandoned

**NON-PROVISIONAL PRIORITY RIGHTS:** I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose all information I know to be material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:


Serial Number	Filing Date	Status

I hereby appoint the attorneys and/or agents associated with customer number 21559 to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Address all correspondence relating to this application to the address associated with customer number 21559.

Address all telephone calls to: Kristina Bieker-Brady, Ph.D., P.C. at 617-428-0200.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full Name (First, Middle, Last)	Residence Address (City, State, Country)	Post Office Address (Street, City, State, Country)	Citizenship
Bruce Verchère	Vancouver, British Columbia Canada	708 West 22 <sup>nd</sup> Avenue Vancouver, British Columbia V5Z 1Z7 Canada	Canadian
 Signature:			30 JUN 05 Date:

Full Name (First, Middle, Last)	Residence Address (City, State, Country)	Post Office Address (Street, City, State, Country)	Citizenship
Rusung Tan	Vancouver, British Columbia Canada	2016 West 43 <sup>rd</sup> Avenue Vancouver, British Columbia V6M 2C9 Canada	Canadian
Signature:			Date:

Full Name (First, Middle, Last)	Residence Address (City, State, Country)	Post Office Address (Street, City, State, Country)	Citizenship
Peter Liston	Ottawa, Ontario Canada	1 Second Avenue Ottawa, Ontario K1S 2H2 Canada	
Signature:			Date:

Full Name (First, Middle, Last)	Residence Address (City, State, Country)	Post Office Address (Street, City, State, Country)	Citizenship
Robert G. Korneluk	Ottawa, Ontario Canada	1901 Tweed Ottawa, Ontario K1G 2L8 Canada	
Signature:			Date: